

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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HILARIO ZAVALA,

Index No. 23-CV-1072

Plaintiff

ANSWER

-against-

T&L CREATIVE SALADS, INC., and
ANTHONY MORELLO,

Defendants.

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Defendants, T&L CREATIVE SALADS, INC., and ANTHONY MORELLO, by and through their attorneys, Law Offices of James P. Clark, P.C., does hereby appear and answer the allegations in the Complaint as follows:

1. DENY the truth of the allegations contained in paragraph 1 of the Complaint.
2. DENY the truth of the allegations contained in paragraph 2 of the Complaint, except
ADMIT that Plaintiff was an employee of T&L Creative Salads, Inc.
3. ADMIT the truth of the allegations contained in paragraph 3 of the Complaint.
4. DENY the truth of the allegations contained in paragraph 4 of the Complaint.
5. DENY the truth of the allegations contained in paragraph 5 of the Complaint and
respectfully refers all questions of law to the Court.
6. DENY the truth of the allegations contained in paragraph 6 of the Complaint and
respectfully refers all questions of law to the Court.
7. DENY the truth of the allegations contained in paragraph 7 of the Complaint and
respectfully refers all questions of law to the Court.
8. DENY the truth of the allegations contained in paragraph 8 of the Complaint and
respectfully refers all questions of law to the Court.

9. DENY the truth of the allegations contained in paragraph 9 of the Complaint and respectfully refers all questions of law to the Court.
10. REPEAT AND REALLEGGE their answers to the allegations contained in paragraphs 1-9 of the Complaint as if fully set forth herein.
11. DENY the truth of the allegations contained in paragraph 11 of the Complaint, except ADMIT that Plaintiff worked for T&L Creative Salads, Inc.
12. DENY the truth of the allegations contained in paragraph 12 of the Complaint and respectfully refers all questions of law to the Court.
13. DENY the truth of the allegations contained in paragraph 13 of the Complaint.
14. ADMIT the truth of the allegations contained in paragraph 14 of the Complaint.
15. ADMIT the truth of the allegations contained in paragraph 15 of the Complaint.
16. DENY the truth of the allegations contained in paragraph 16 of the Complaint, except ADMIT that Plaintiff was paid \$14.00 per hour during a portion of his employment.
17. DENY the truth of the allegations contained in paragraph 17 of the Complaint, except ADMIT that Plaintiff worked in excess of 40 hours per week during the course of his employment.
18. DENY the truth of the allegations contained in paragraph 18 of the Complaint.
19. DENY the truth of the allegations contained in paragraph 19 of the Complaint.
20. DENY the truth of the allegations contained in paragraph 20 of the Complaint.
21. REPEAT AND REALLEGGE their responses to the allegations contained in paragraphs 1-20 of the Complaint as if fully set forth herein.
22. DENY the truth of the allegations contained in paragraph 22 of the Complaint.
23. DENY the truth of the allegations contained in paragraph 23 of the Complaint.

24. DENY the truth of the allegations contained in paragraph 24 of the Complaint.
25. DENY the truth of the allegations contained in paragraph 25 of the Complaint.
26. REPEAT AND REALLEGGE their answers to the allegations contained in paragraphs 1-25 of the Complaint as if fully set forth herein.
27. DENY the truth of the allegations contained in paragraph 27 of the Complaint and respectfully refer all questions of law to the Court.
28. DENY the truth of the allegations contained in paragraph 28 of the Complaint.
29. DENY the truth of the allegations contained in paragraph 29 of the Complaint.
30. DENY the truth of the allegations contained in paragraph 30 of the Complaint.
31. REPEAT AND REALLEGGE their answers to the allegations contained in paragraphs 1-30 of the Complaint as if fully set forth herein.
32. DENY the truth of the allegations contained in paragraph 32 of the Complaint and respectfully refer all questions of law to the Court.
33. DENY the truth of the allegations contained in paragraph 33 of the Complaint.
34. DENY the truth of the allegations contained in paragraph 34 of the Complaint.
35. DENY the truth of the allegations contained in paragraph 34.A of the Complaint.
36. DENY the truth of the allegations contained in paragraph 34.B of the Complaint.
37. DENY the truth of the allegations contained in paragraph 34.C of the Complaint.
38. DENY the truth of the allegations contained in paragraph 34.D of the Complaint.
39. DENY the truth of the allegations contained in paragraph 34.E of the Complaint.
40. DENY the truth of the allegations contained in paragraph 34.F of the Complaint.
41. DENY the truth of the allegations contained in paragraph 34.G of the Complaint.
42. DENY the truth of the allegations contained in paragraph 34.H of the Complaint.

43. DENY the truth of the allegations contained in paragraph 34.I of the Complaint.
44. REPEAT AND REALLEGGE their answers to the allegations contained in paragraphs 1-34 of the Complaint as if fully set forth herein.
45. DENY the truth of the allegations contained in paragraph 36 of the Complaint and respectfully refers all questions of law to the Court.
46. DENY the truth of the allegations contained in paragraph 37 of the Complaint.
47. DENY the truth of the allegations contained in paragraph 38 of the Complaint.
48. DENY the truth of the allegations contained in paragraph 38.A of the Complaint.
49. DENY the truth of the allegations contained in paragraph 38.B of the Complaint.
50. DENY the truth of the allegations contained in paragraph 38.C of the Complaint.
51. DENY the truth of the allegations contained in paragraph 38.D of the Complaint.
52. DENY the truth of the allegations contained in paragraph 38.E of the Complaint.
53. DENY the truth of the allegations contained in paragraph 38.F of the Complaint.
54. DENY the truth of the allegations contained in paragraph 38.G of the Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

55. Plaintiff's Complaint fails to state a claim under the Fair Labor Standards Act.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

56. Plaintiff's Complaint fails to state a claim under the New York Labor Law.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

57. Plaintiff's Complaint fails to state a claim under the New York State Hospitality Industry Wage Order, 12 NYCRR Part 146.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

58. Plaintiff's claims may be barred, in whole or in part, by Plaintiff's unclean hands.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

59. Plaintiff's claims are barred because he was at all times paid in accordance with the FLSA and New York Labor Law.

AS AND FOR AN SIXTH AFFIRMATIVE DEFENSE

60. Defendants had no intention to violate any provision of the FLSA or the New York Labor Law. Therefore, Defendants did not willfully violate the FLSA or the New York Labor Law.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

61. Plaintiff's Complaint fails to state facts sufficient to entitle Plaintiff to an award of attorney's fees or liquidated damages.

AS AND FOR AN EIGTH AFFIRMATIVE DEFENSE

62. Although Defendants deny that they committed or have responsibility for any act that could support the recovery of punitive damages, if and to the extent any such act is found to have been committed, recovery of punitive or liquidated damages is unwarranted.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

63. Defendants hereby give notice of their intent to assert and rely on such other and further affirmative defenses that may become available during the course of discovery.

WHEREFORE, Defendants T&L Creative Salads, Inc., and Anthony Morello request that judgment be rendered against Plaintiff dismissing this action in its entirety and awarding them costs, disbursements and such other and further relief as the Court deems to be appropriate.

Dated: Northport, New York
March 15, 2023

Respectfully submitted,

LAW OFFICES OF JAMES P. CLARK, P.C.

/s/

By: _____

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